### CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

**APPLICATION NUMBER:** 5-01-432

**APPLICANT:** California Department of Transportation

**AGENTS:** Stephanie Reeder; Aziz Elattar; Ron Kosinski

**PROJECT LOCATION**: Route 90 from Coastal Zone boundary to halfway between Culver Boulevard and Mindanao Way, a point 1,934.7 feet west of the westerly edge of the proposed bridge over Culver Boulevard, Palms Mar Vista-del Rey District, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Construct a 58.6-foot wide, four lane, 436 foot long bridge over Culver Boulevard partially located within the coastal zone; extend Route 90 Freeway 1,020 feet west of the westerly edge of the proposed bridge; install one 38.4 foot wide, 1,020 foot long eastbound ramp and one 38.4 foot wide, 771-foot long westbound ramp in the 18.83 acre undeveloped median between Route 90's present east and westbound roadways in order to connect the bridge to existing roadways that now extend between Culver Boulevard and Mindanao Way. (Modified East Alternative). The project would avoid all existing wetlands on the site, except that the applicant proposes to enhance the biological quality of the Marina Drain, the 0.73-acre freshwater wetland found in the uncovered drain that exists on the site, to remove invasive introduced plants from the site, and to use native vegetation in planting the engineered slopes that will support the new ramps. The applicant also proposes a system of pretreatment swales that will enhance the quality of water discharged from the site. The application includes a request for after-the-fact authorization for: demolition of a sports club, retail pottery store and RV/boat storage facility. The project will require 17,800 cubic yards of cut and 98,000 cubic yards of fill; 80,200 cubic yards will be imported.

#### **SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending <u>APPROVAL</u> of the revised project (the Modified East Alternative) with conditions. The applicant now proposes an alternative to the original design that eliminates the wetland fill and temporary wetland impacts of the originally proposed project. Staff is recommending approval of this Modified East Alternative because it does not involve wetland fill and is otherwise consistent with the Coastal Act. The applicant has proposed to enhance the biological quality of a freshwater wetland found in the uncovered

drain that exists on the site, the Marina Drain, to remove invasive vegetation that exists on the site and to use native vegetation in planting the engineered slopes that will support the new ramps. The applicant has also provided a water quality enhancement program that will pretreat all drainage from the road before it enters the wetland. Finally, the applicant has provided a lighting plan that will minimize overspill of light from the lighted intersections onto habitat areas. Staff is recommending approval with conditions requiring that the applicant carry out its habitat enhancement and water quality, the control of siltation during construction and protection of water quality after construction, the control of project lighting, and the provision of biological and archaeological monitors during construction. The Marina Drain in the median discharges directly into the portion of the Marina Drain that is located on Area C Playa Vista, which is directly southwest of the project. The removal of invasive plants directly upstream from Area C Playa Vista will have a beneficial effect on restoration efforts in Area C, if any take place, and on other areas down stream of this site. The applicant has provided a feasible alternative that would be less environmentally damaging than the project originally proposed, and has also proposed mitigation measures that protect and restore the biological productivity of the sensitive resources that have been identified on site. The motion to carry out the staff recommendation is found on Page 4.

#### APPROVALS RECEIVED:

- 1. Categorical Exclusion CEQA, Caltrans
- 2. Department of Fish and Game 1601 permit (Streambed alteration agreement Notification Number 5-265-00, 6/27/01)
- 3. City of Los Angeles Department of Public Works
- 4. California Regional Water Quality Control Board, Los Angeles Region, Conditional Certification for proposed State Route 90/Culver Boulevard Fly-over project (Corps Project 2000-06124-PJF), unnamed tributary to Ballona Creek, Marina del Rey, Los Angeles County (File No. 00-133) (401 Conditional Certification)

#### STAFF NOTES:

A. COASTAL ZONE BOUNDARY. The project is located on state-owned land located in the City of Los Angeles. Not all of the project is located in the Coastal Zone. The Coastal Zone boundary follows a projection of the northeastern side of the Alla Road right-of-way, connecting to the Pacific Electric Railroad right-of-way, then running east along the northerly edge of the right-of-way and from there to the southerly edge of the Ballona Creek Channel (Exhibits 1, and 2). The northerly half of the Culver Boulevard/Route 90 intersection is outside the Coastal Zone, but the eastbound Route 90 roadway and the southerly half of the intersection and most of the Route 90 median area west of Culver Boulevard are located inside the Coastal Zone. About half of the proposed bridge and a sliver of the presently undeveloped median are not in the Commission's jurisdiction, however most of the median strip west of Culver Boulevard is located in the Commission's jurisdiction, as are the westerly ramps and the proposed wetland fill and restoration. Exhibit 1, and page 2 of Exhibit 2, show depictions of the location of the Coastal Zone in

this area. The proposed development that is located within the Coastal Zone requires a coastal development permit.

**B.** LOCALLY ISSUED PERMITS UNDER 30600(b). The City of Los Angeles has assumed the responsibility of issuing coastal development permits within its boundaries as permitted in Section 30600(b) of the Coastal Act, which allows local governments to review and issue coastal development permits prior to certification of a Local Coastal Program (LCP). Section 30600(b), however, provides that local governments do not have jurisdiction to issue coastal development permits under this program to public agencies over which they do not normally have permitting authority, such as schools and state agencies. Therefore, unlike many other projects that the Commission has reviewed in the City, this project has not received a coastal development permit from the City of Los Angeles.

Section 30600 states in part:

#### Section 30600

- (a) Except as provided in subdivision (e), and in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person, as defined in Section 21066, wishing to perform or undertake any development in the coastal zone, other than a facility subject to Section 25500, shall obtain a coastal development permit.
- (b) (1) Prior to certification of its local coastal program, a local government may, with respect to any development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620, and 30620.5, establish procedures for the filing, processing, review, modification, approval, or denial of a coastal development permit. Those procedures may be incorporated and made a part of the procedures relating to any other appropriate land use development permit issued by the local government.
- (2) A coastal development permit from a local government shall not be required by this subdivision for any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled, or for any development by a public agency for which a local government permit is not otherwise required. (Emphasis added)

The City of Los Angeles does not have permit jurisdiction over development carried out by the State Department of Transportation elsewhere in the City of Los Angeles. Therefore, the Department of Transportation has applied directly to the Commission for this coastal development permit for the development that is proposed inside the Coastal Zone.

#### I. STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with special conditions

MOTION: I move that the Commission approve Coastal

Development Permit No. 5-01-432 pursuant to the staff

recommendation.

#### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### **RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

#### II. STANDARD CONDITIONS

- 1. <u>Notice of Receipt and Acknowledgment.</u> The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. <u>Expiration.</u> If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment.</u> The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. <u>Terms and Conditions Run with the Land.</u> These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

#### III. SPECIAL CONDITIONS.

The permit is approved subject to the following special conditions:

#### 1. CONSTRUCTION STAGING AND DISTURBANCE PLAN.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall provide, for the review and approval of the Executive Director, a construction disturbance and staging plan that shows all areas in which stockpiling, equipment access, storage, and haul routes can not take place. The plan shall indicate that construction staging area(s) shall not encroach on wetlands areas and shall be set back no less than 25 feet from all wetlands. Plans shall also identify all wetlands on site and shall indicate those wetlands on construction and bid drawings, indicating that construction shall not encroach on, result in siltation into or disturb the wetlands and the areas immediately adjacent to wetlands. Wetlands are those designated by the United States Army Corps on Engineers, and those state wetlands identified by the Department of Fish and Game, as shown on Exhibits 5, 6 and 7.

- (1) The plan shall include/require:
  - (a) Visible hazard fences shall be placed no less than 25 feet from the wetland areas noted in Exhibits 5, 6 and 7, above, prior to construction. The applicant shall place sandbags and/or plastic on the outside of the fence to avoid siltation into these areas.
  - (b) A site plan that depicts:
    - Limits of the areas in which staging, stockpiling and hauling shall not take place due to the existence of wetlands or established native shrubs;
    - ii. Location of construction fencing and temporary job trailers;
    - iii. Wetlands on the site
  - (c) A temporary runoff control plan consistent with Condition 3, below.
- B. The permittee shall undertake development in accordance with the approved final plans and with this condition. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required

#### 2. WETLAND AND HABITAT ENHANCEMENT PLAN.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall provide, for the review and approval of the Executive Director, a detailed Wetland and Habitat Enhancement Plan for the entire area of the median strip. The plan shall identify the following areas: (a) wetlands; (b) areas vegetated with upland vegetation, (c) manufactured slopes; (d) drainage swales and (e) temporary erosion control plantings. The design shall take into account the placement of swales and other structures provided for water quality treatment as depicted in the applicants' water quality enhancement plan and required in condition 3. The Wetland and Habitat Enhancement Plan, as developed in the steps and according to the criteria outlined below, shall reflect the current mixture of native plants, shall leave existing native plants in place, use plant species found in Ballona Wetland and nearby upland habitats, and/or use cuttings and seed stock from native plants found in the Ballona area.

- (1) **Initial assessment**. The applicant shall submit for the review and approval of the Executive Director, a brief initial assessment describing the soil type and vegetation now found in the median strip and in the waterways at present and that is likely to exist on the site after completion of the installation of the habitat enhancement. The assessment shall include
  - (a) An evaluation of measures necessary to remove invasive plants and a schedule of removal.
  - (b) Measures necessary to protect existing native upland plants,
  - (c) The effect on soils of the proposed grading;
  - (d) Measures to assure the soils in the manufactured slopes shall be appropriate for planting.
  - (e) Measures to assure that the water supply of the enhanced wetland shall be appropriate for wetland plants, and the amount of water to be expected,
  - (f) The amount and duration of irrigation necessary to establish the project,
  - (g) The measures that might be necessary to control invasive plants at the beginning of the project and after its completion, and
  - (h) Measures necessary to prevent siltation and erosion from the site while plants are establishing.
- (2) **Habitat Goals**. Prior to preparing the Wetland and Habitat Enhancement Plan, the applicant shall provide a statement of habitat goals prepared by a biologist or licensed landscape architect experienced in wetland restoration for the review and written approval of the Executive Director. The general goal of the plan shall be to provide support habitat for native birds and insects found in the area presently or in the past. The goals shall establish a minimum coverage of each type of plant community, including preservation of all currently present wetland or hydrophytic plants that now occur on the median strip. Plans and notes shall also indicate the goals underlying the choices of any other plants shown for manufactured slope

landscaping and indicate the habitat function of the proposed vegetationthe animals and other plants expected to benefit from the presence of the vegetation.

- (3) **Conceptual plan**. Based on the habitat goals approved by the Executive Director, the applicant shall submit for the review and approval of the Executive Director a conceptual Wetland and Habitat Enhancement Plan and a schedule of installation of plants consistent with these goals. Based on the applicant's initial plans, the Wetland and Habitat Enhancement Plan shall be consistent with the following basic habitat goals:
  - (a) Wetlands. Plans for restoration/enhancement of the wetland areas on the site, identified in Exhibits 5, 6 and 7. These areas shall be enhanced and preserved as freshwater wetlands. The design shall address hydrology, residence time of water, seasonal fluctuations or water levels and the accommodation of storm water.
  - (b) Upland areas. The existing saltbush scrub and coastal sage scrub found in the upland areas shall be protected as much as feasible, and, if disturbed during construction, replaced with a mixture of native coastal prairie, saltbush scrub and coastal sage scrub plants that tolerate intermittent irrigation. Invasive species shall be removed. The plants shall be consistent with Caltrans standards for line-of-sight impacts and fire resistance.
  - (c) Manufactured slopes. The manufactured slopes shall be planted with low-lying individuals of the coastal sage scrub and saltbush scrub community that are fire resistant.
  - (d) Swales and temporary erosion control. The applicant shall specify the species and seed sources of vegetation used for temporary erosion controls and for water quality enhancement devices that employ vegetation, such as vegetated swales. Plants used for these purposes shall be natives common to the Ballona area, and in no instance shall be invasive plants as defined in subsection 6 below.
- (4) Detailed Plans. After the Executive Director's approval of the Wetland and Habitat Enhancement Plan in concept, the applicant shall provide for the review and approval of the Executive Director detailed plans and notes that show the location of plants, sizes of container plants, density of seeds, if seeds are used, expected sources of seeds and container plants, a schedule of installation and a statement describing the methods necessary to install and maintain the enhanced and planted areas. The detailed pans shall be consistent with the Habitat Goals and with the approved Conceptual Plans.

- (5) **Monitoring.** Based on the information in the Wetland and Habitat Enhancement Plan and in the initial assessment, the applicant shall prepare a monitoring schedule, providing (a) a plan for removal of invasive and nonnative plants identified in the initial assessment, (b) an initial report upon completion of initial planting to verify that the plants have been installed according to the approved plan, (c) no fewer than two additional reports in the first year after completion of the initial report, and (d) no fewer than one report in each subsequent year for no less than 5 years. The reports shall contain a brief description of the condition of the plants; the degree of coverage and the survival rate of various plants; either photographs, maps or illustrations and recommendations concerning activities necessary to achieve the stated "Habitat Goals" discussed in Section 2 above; and if the planting is not consistent with the goals, suggested measures to remedy the situation. The applicant shall, at the appropriate season, replant to remedy any deficiencies noted in the monitoring reports, and remove any invasive or non-native plants that have established on the site. After the initial five years, the area shall be maintained as required in this coastal development permit according to the normal Caltrans maintenance schedule, but in no event less often than once a year.
- (6) Definition of invasive plants. No non-native or invasive species shall be employed or allowed to naturalize or persist on the site. Invasive plants are those identified in the California Native Plant Society, Los Angeles -- Santa Monica Mountains Chapter handbook entitled <u>Recommended List of Native Plants for Landscaping in the Santa Monica Mountains</u>, January 20, 1992; those species listed by the California Exotic Plant Pest Council on any of their watch lists as published in 1999; and those otherwise identified by the Department of Fish and Game or the United States Fish and Wildlife Service, such as the Ocean Trails list of invasive plants (attached).
- (7) **Maintenance**: In addition to the habitat goals, Conceptual Wetland and Habitat Enhancement Plan, detailed Wetland and Habitat Enhancement Plan and definitions noted above, the Wetland and Habitat Enhancement Plan shall include a manual for maintenance methods and a plan for training maintenance employees in the needs of the plants on the plant palette and on the identification of native and invasive plants. The manual shall include:
  - (a) A list of chemicals proposed to be employed and methods for their application. Said chemicals shall not be toxic to fish or wildlife or persistent in the environment. If herbicides are used, they shall be applied by hand application or by other methods that shall prevent leakage, percolation or aerial drift into adjacent restoration areas. Pursuant to this the maintenance plan shall include:
    - i. An Integrated Pest Management Program (IPM) shall be designed and implemented for all of the proposed

landscaping/planting on the project site. Because the project is located within the immediate watershed of Ballona wetland, alternatives to pesticides including, but not limited to, the following shall be employed:

- Bacteria, viruses and insect parasites shall be considered and employed where feasible.
- Weeding, hoeing and trapping manually.
- Use of non-toxic, biodegradable, alternative pest control products.
- (b) Where pesticides and/or herbicides are deemed necessary in conjunction with the IPM program, the list of pesticides and their application methods shall be included in the plans. In using pesticides, the following shall apply:
  - i. All state and local pesticide handling, storage, and application guidelines, such as those regarding timing, amounts, method of application, storage and proper disposal, shall be strictly adhered to.
  - ii. Pesticides containing one or more of the constituents listed as parameters causing impairment of the receiving waters for the proposed development (the Ballona Freshwater Marsh; Ballona wetlands, Ballona Creek and Ballona Creek Estuary) on the California Water Resources Control Board's 1998 Clean Water Act Section 303 (d) list, or those appearing on the 2002 list shall not be employed. In addition to those products on the Section 303(d) list, products that shall not be employed include but are not limited to those containing the following constituents:
    - Chem A. (group of pesticides) aldrin, dieldrin, chlordane, endrin, heptachlor, heptachlor epoxide, hexachlorocyclohexane (including lindane), endosulfan, and toxaphene.
    - DDT.
- B. The permittee shall undertake development in accordance with the approved final plans and with this condition. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required

#### 3. CONSTRUCTION-RELATED EROSION AND SEDIMENT CONTROL PLAN.

A. **PRIOR TO ISSUANCE OF THE PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, an Erosion and Sediment Control Plan outlining appropriate Best Management Practices to limit erosion and sedimentation during construction, such that no sediment escapes into the wetlands identified in Special Condition 1 or runs off this development site. Applicant shall install all appropriate erosion and sediment control Best

Management Practices (BMPs) to minimize, to the maximum extent practicable, the erosion and sediment runoff from this development site. Due to the sensitive location of the project, the plan must meet the following criteria:

- (1) The plan shall be consistent with the construction disturbance and staging plan required in Special Condition 1.
- (2) To the maximum extent practicable, construction shall occur in stages that limit the length of time that the soils are uncovered at any one time.
- (3) The plan shall minimize, to the maximum extent practicable, grading during the rainy season (October 15 through April 1).
- (4) BMPs shall include, but are not limited to, drainage inlet protection, temporary drains and swales, gravel or sandbag barriers, fiber rolls, and silt fencing as appropriate. Applicant must also stabilize any stockpiled fill or cut or fill slopes with geotextiles or mats and close and stabilize open trenches as soon as possible. These erosion control measures shall be installed on the project site prior to or concurrent with the initial grading operations and maintained throughout construction to minimize erosion and sediment runoff waters during construction.
- (5) The plan shall also include temporary erosion control measures to be implemented immediately if grading or site preparation should cease and such cessation is likely to extend for a period of more than 30 days. If such cessation occurs, the applicant shall install such stabilization measures immediately upon cessation of grading, but in no event more than 30 days after grading stops. Temporary measures shall include, but are not limited to, stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag and gravel bag barriers, silt fencing; temporary drains and swales; and sediment basins. BMPs shall not include any erosion or sediment control BMPs that might introduce the threat of invasive or non-native species to the wetlands. Given the sensitivity of adjacent habitat, sediment basins are not sufficient to capture sediment. They must be accompanied by more stringent means of controlling sediment in close proximity to marshes and wetlands as identified.
- (6) No sediment shall be discharged into the wetlands identified in Exhibits 5, 6 and 7 (the Marian Drain).
- (7) Trucks and equipment shall not be allowed to track mud or other materials onto roads per methods outlined in Caltrans BMP CD29A (2), Caltrans Storm Water Quality Handbook, or an equivalent measure required by Los Angeles City Department of Public Works.
- (8) The applicant shall test soils for toxicity during excavation according to Department of Toxic Substances Control rules and Regional Water Quality Control Board rules, whichever agency determines it has jurisdiction.
  - (a) If contaminated soils or associated materials are identified, other than non-water soluble aerially deposited lead, the toxic material shall be removed and transported to an appropriate disposal site approved for contaminants that may be discovered in the material. The site shall be an approved disposal site located outside the coastal zone.

- (9) Contaminated soils or associated material excavated shall be stockpiled only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.
- (10) Aerially deposited lead-contaminated soils or associated material discovered during the excavation of the site shall be handled according to DTSC rules. If the lead is water-soluble, it shall be hauled offsite as indicated in Subsection A6 above. If it is not water-soluble, it may be properly capped and used under the improved roadway, if consistent with DTSC approvals.
- (11) Airborne particulates shall be controlled consistent with the rules of the Air Quality Management District.
- B. The permittee shall undertake development in accordance with the approved final plans and with this condition. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## 4. CONSTRUCTION AND POST-CONSTRUCTION WATER QUALITY MANAGEMENT PLAN.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide for the review and written approval of the Executive Director a Water Quality Management Plan (WQMP). This plan shall include a list of best management practices to minimize to the maximum extent practicable the amount of polluted runoff that is discharged into the Ballona Wetland, or any other waterway. Pursuant to this requirement, the plan shall include:

#### 1. Construction BMPs

- (a) All trash and debris shall be disposed in the proper recycling or trash receptacles at the end of each day.
- (b) All stock piles and construction material shall be covered and enclosed on all sides, and in addition, as far away as possible from the identified wetlands, drain inlets, or any other waterway, and shall not be stored in contact with the soil.
- (c) Vehicles shall be refueled offsite or in a designated fueling area with a proper suite of BMPs outlined and submitted in the water quality management plan.
- (d) Asphalt demolished from the site shall be removed within 48 hours during the rainy season.
- (e) Vehicles shall not track mud or debris onto roads.
- (f) Staging areas shall include impermeable berms to catch fuel spills.
- (g) Paving machines shall be parked over drip pans or absorbent materials.
- (h) Spills of all solid and liquid materials shall be immediately cleaned up. Contaminated soils and clean-up materials shall be disposed

of according to the requirements of this permit and the RWQCB. Dry spills should be swept, not washed or hosed. Wet spills on impermeable surfaces shall be absorbed, and absorbent materials properly disposed. Wet spills on soil shall be dug up and all exposed soils properly disposed.

- (i) The applicant shall only apply concrete, asphalt, and seal coat during dry weather to prevent contaminants from coming into contact with stormwater runoff.
- (j) All storm drain inlets and manholes shall be covered when paving or applying seal coat, tack seal, slurry seal, fog seal, or similar materials.
- (k) Any imported fill must be tested for contaminants in advance of importation to the site. No contaminated material from off site may be used on the site.

#### 2. Post Construction BMPs

- (a) Maintain post development peak runoff rate and average volume at levels that are no greater than pre-development levels; AND post development runoff mass pollutant loading and concentration of pollutants shall be significantly reduced from pre-development levels, as proposed.
- (b) The applicant shall install an appropriate suite of source control BMPs as well as and structural treatment BMPs designed to treat, infiltrate, or filter the amount of stormwater runoff generated by any storm event up to, and including the 85<sup>th</sup> percentile, 24-hour storm event for volume-based BMPs, and/or the 85<sup>th</sup> percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs.
- (c) The WQMP shall indicate how it shall minimize to the maximum extent practicable or eliminate the contribution of 303(d)-listed pollutants (for Ballona Wetlands, Ballona Creek, and Ballona Creek Estuary) from this project.
- (d) Install energy dissipaters at the outlets of all discharge points.
- (e) The applicant shall submit a monitoring and maintenance schedule for all structural and non-structural BMPs. Each structural BMP shall be inspected prior to the onset of the rainy season and monthly during the rainy season (October 15 to April 1).
- (f) Regularly patrol and clean up the area for discarded containers, trash and other materials likely to blow into or otherwise impact the wetlands and waterways.
- B. The permittee shall undertake development in accordance with the approved final plans and with this condition. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this

coastal development permit unless the Executive Director determines that no amendment is required

#### 5. BIOLOGICAL MONITOR.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and again before any vegetation is disturbed; a biologist with experience in plant and animal identification whose qualifications have been reviewed and approved by the Executive Director shall survey the site and prepare a Biological Monitor's Report to the Executive Director concerning the presence of (1) any rare plant, (2) nesting birds. If a nesting bird is found within or immediately adjacent to the footprints of the excavation or of the staging areas, work including grading or clearance of vegetation shall not proceed until the qualified biologist certifies that the chicks have fledged and that the work shall not disturb the birds. If any rare plant is found within the footprints of areas subject to clearance, fuel modification, excavation or within the staging areas or haul routes identified in Special Condition 1, the permit shall not issue, or if the permit has issued, work in the immediate area of the rare plant shall stop until a mitigation plan is provided for the review and approval of the Executive Director.

The mitigation plan shall consider avoidance, or salvage and replanting within Area B or C Ballona and shall recommend the option with the least disturbance. Any replanting in areas not subject to a currently valid coastal development permit that includes revegetation shall require an amendment to this permit or a new permit. All reports shall be filed in the Commission office prior to issuance of the permit and again prior to the disturbance of any vegetation.

In addition to confining the work to the areas identified for construction, hauling or staging in Special Condition 1, the applicant shall place visible orange plastic 48-inch high temporary fences around the area in which any rare plant has been identified and shall **keep out and prevent** fuel modification, clearance, excavation, stockpiling, and the entry of vehicles or storage of equipment in this area. A biological monitor shall remain on site throughout the earthmoving operations. A copy of the Biological Monitor's Report(s) shall be provided to the Executive Director.

B. The permittee shall undertake development in accordance with this condition and with any biological mitigation measures approved by the Executive Director or the Commission. Any proposed changes to the approved biological monitoring procedures or measures shall be reported to the Executive Director. No changes to the approved biological monitoring procedures or mitigation measures shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

#### 6. PROJECT LIGHTING.

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the applicant shall provide lighting plans for the review and written approval of the Executive Director. A copy of all federal and state standards for lighting that may apply shall accompany the plans, along with an explanation identifying which standards are mandatory. Unless the mandatory standards applicable to this road require more lighting, the lighting plans shall provide:
  - (1) Illumination shall be at the lowest levels allowed in mandatory federal and state standards for secondary highways and or intersections.
  - (2) Where lights are employed, sodium vapor street lamps (HSE) shall be used.
  - (3) All lights shall be directed so that, as much as possible, spillover outside the right-of-way shall not occur.
  - (4) Any plan that shows lighting outside of intersections shall be accompanied by a written explanation describing why such lighting is required.
  - (5) The applicant shall employ flat-faced lighting, shielding, solid or vegetative barriers and other measures to confine lighting within the roadway.
  - (6) No night work or night construction lighting shall be permitted.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

#### 7. ARCHAEOLOGICAL RECOVERY

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence for the review and written approval of the Executive Director that the State Historic Preservation Officer has determined that no further investigation of the sites in the vicinity of the approved bridge project is required. The "vicinity" means within 100 yards. Pursuant to this, prior to issuance of the permit, Caltrans shall provide evidence for the review and approval of the Executive director that a qualified archaeologist has evaluated the project in light of current confidential reports, and that Caltrans has obtained concurrence of the State Historic Preservation Officer with such evaluation. An archaeological monitor qualified by SHPO standards and a Native American Monitor appointed consistent with the standards of the Native American Heritage Commission shall be present on the site during all project grading. If cultural deposits or grave goods (as defined by SHPO) are uncovered during construction, work must stop until the archaeological monitor and the Native American Monitor can evaluate the site and,

if necessary, develop a treatment plan approved by SHPO and the Executive Director. Upon review of the treatment plan, the Executive Director shall determine whether an amendment is required. If human remains are found, the Commission requires that the applicant carry out identification and recovery or reburial consistent with State Law.

#### IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

#### A. PROJECT DESCRIPTION AND LOCATION

The applicant proposes to construct a four-lane bridge on Route 90 (the Marina Expressway) over Culver Boulevard, and to extend freeway lanes to approximately halfway between Culver Boulevard and Mindanao Way. In this part of its length, Route 90 connects the 405 Freeway to Lincoln Boulevard. Route 90 is a State Highway that extends from Lincoln Boulevard across the 405. Caltrans representatives describe Route 90 as extending to the City of La Habra; a city located approximately 20 miles inland. Most of the route, such as Slauson Boulevard, the portion of the route that lies directly east of the 405 Freeway, is not developed as a freeway (limited access route). From the 405 to Culver Boulevard, Route 90 is a freeway. Between Culver Boulevard to Lincoln Boulevard, Route 90 is not a freeway because there are signalized intersections at Culver Boulevard, Alla Road, Mindanao Way, and Lincoln Boulevard.

Within the Coastal Zone portion of the project site, Route 90 is developed with two westbound lanes and two eastbound lanes separated by a (approximately) 330-foot wide, 2,950-foot long median. 9.74 acres of the 18.83 acre median between Culver Boulevard and Mindanao Way were previously occupied by several businesses, all but one of which have been asked to vacate. In the larger area (approximately 38 acres) between the south bank of Ballona Creek and Lincoln Boulevard, 10.05 acres are developed with streets. The 18.83 acres of the median is not developed and is vegetated by a mixture of native plants (saltbush scrub community), invasive species such as pampas grass, and several drainage ditches that support freshwater marsh plants (Exhibits 5, 6 and 7). A survey conducted by Psomas Associates in 1995 identified a total of 1.81 acres of state wetlands and 0.99 acres of Corps jurisdictional wetlands within the median between Culver Boulevard and Mindanao Way. In June 2001, the Department of Fish and Game issued a Streambed Alteration permit for an earlier version of the proposed project. In mid-September 2001, the Commission staff biologist field-checked the delineation of the wetlands and confirmed that it was accurate.

The applicant has changed its project description from the project that it originally proposed. The purpose of the change is to avoid wetland fill. The applicant initially proposed, as requested in its 1601 permit (Exhibit 8), to fill 0.23 acres of wetlands and cause temporary impacts on 0.09 acres of wetlands, and to mitigate that fill by restoring

additional wetlands within the median. Shortly before the Commission's February 2002 hearing, Caltrans representatives changed the project to an alternative (The Bridge Alternative) that avoided wetland fill, but significantly shaded about a tenth of an acre of wetlands. At the hearing, Caltrans representatives indicated that it would be possible to avoid all fill and shading of wetlands. Instead, an alternative, the "East Alternative" that Caltrans staff had initially rejected for safety reasons could be slightly redesigned to reduce safety issues, and, as redesigned, could be constructed. The "East Alternative" avoids all wetland fill. Initially Caltrans staff described the "East Alternative" in this way:

#### "East Alternative"

"A second alternative to the current design would involve merging the connector ramps with their respective frontage roads prior to the existing wetland to avoid any impact. The connector ramp split moves towards Culver Boulevard relative to the current proposed design. .... No filling of the wetlands would be required for this alternative. The project construction costs would reduce by approximately \$500K due to the shorter length of the connector ramps....

However, a significant concern with this alternative is an increase in both the quantity and scale of required design exceptions needed. This could create an unsafe driving environment, since this is at the end of a freeway and vehicle speeds are expected to be excessive in this zone. Some significant exceptions may be required. This is primarily a result of the short distance from the Culver Undercrossing Bridge to the merge with the frontage roads and the amount of horizontal and vertical separation between the two fixed points. This creates substandard stopping sight distances, which reduces the reaction time a driver has to react to upcoming obstacles or unexpected road conditions. Another result is the tightness of the horizontal curvature of the connector to tie into the frontage road. Again, since the speeds at the end of the freeway are expected to be on the high side, the ability of the driver to handle the tight curve without leaving the roadway is hindered." (Caltrans, February 17, 2002)

After the hearing, Caltrans engineers discovered a way to modify the East Alternative by modifying the bridge, so that the slope to the intersection would begin on the bridge itself. With this change, motorists would see the intersection early enough to be able to stop if necessary. Caltrans describes this version, the Modified East Alternative in the following way:

"The Modified East Alternative (See Modified East Alternative Exhibits 1, page 2 of Exhibit 2, and Exhibit 3) retains the original East Alternative horizontal alignment but includes specific design modifications to eliminate design exceptions that previously made the original East Alternative alignment unacceptable to Caltrans for safety reasons. The primary difference is that the Modified East Alternative redesigns the Culver Blvd Undercrossing ("UC") Bridge profile to include a vertical curve, which increases the stopping sight distance along the Connector Ramps to

meet required design standards. Like the original East Alternative, the Modified East Alternative would not require any filling or shading impacts to the existing wetlands.

The advantage of the Modified East Alternative is the elimination of the stopping sight distance exceptions that were needed for the original East Alternative and what makes the alternative acceptable for safety reasons. The one disadvantage to the Modified East Alternative is that the Culver Blvd UC Bridge would require at least a partial, if not a full, redesign. There will be an increase in costs for the redesign effort. In addition, the project schedule will have to be extended to allow for the necessary redesign, review and approval periods." (Caltrans, March 13, 2002 (Full text in Exhibit 3.)

Additional project description. The present project is the first phase of a project that would ultimately link Route 90 Expressway directly with Admiralty Way in the Marina del Rey and complete the Expressway's development as a limited access, high-speed route between Lincoln Boulevard and Route 405. This phase of the project (the distance between Centinela Boulevard and Mindanao Way) is 7,910.476 feet or about a mile and a half in length. The length of the median from Culver Boulevard to Mindanao Way is approx. 2,950 feet (a little over half a mile), all but a corner of which is located within the Coastal Zone (Exhibits 1 and page 2 of Exhibit 2). In preparing for the project, the applicant removed certain structures and uses that have been allowed to operate within the median as interim uses of the right-of-way without first receiving a coastal development permit. These include a boat storage operation, a pottery store and an athletic facility. There are no conditions imposed on this project to restore or mitigate for the unpermitted development because the project would (1) displace theses uses with the road and (2) with restored habitat and wetland.

Issues have been raised concerning whether, in considering this project, the Commission is considering the complete project, or whether this is only part of a larger project. Because of State and local budgetary constraints, Caltrans normally carries out road improvements, even those that may eventually connect with each other, in segments, that are designed build over a number of budgetary years. Caltrans requires that each road-widening project can function adequately on its own and that it in itself improve traffic flow. The next "phase" of the project may occur within two or three years, or possibly never, but each phase of a project like this is designed to function and be useful independently, and indefinitely, with or without the completion of the next phase. There is a second improvement of Route 90, which would improve its intersection with Lincoln Boulevard that is under consideration. This extension to Lincoln is not yet approved or funded. Approval of this project does not commit the Commission to approve the other project and construction of this project does not commit Caltrans to build the revised intersection at Lincoln Boulevard.

The wetlands on the project site are located within and adjacent to a drainage ditch that connects with several municipal storm drains that drain the developed area to the north of

the project and discharge into the Marina Drain at the southern edge of the right-of-way. The ditch runs the length of the median strip between Culver Boulevard and Mindanao Way, generally parallel to the roadway, but widening near its intake from a major drain to the north (the Marina Drain) and also at its discharge to the south (again at the Marina Drain.) (Exhibits 5, 6 and 7.) As noted above, the applicant originally proposed to enhance this area, as requested in its 1601 permit, in order to mitigate its filling of 0.23 acres of wetlands. No wetland fill is now proposed. As part of the project, the applicant continues to propose to restore and enhance the wetlands and saltbush/coyote bush scrub that now exist within the median, and to remove invasive plants. The applicant proposes to remove iceplant, pampas grass and other invasives that now exist on the site. Most of the Pampas grass is now growing within the wetlands. The iceplant and pampas grass dominate the wetland portion of the median strip. The existing wetlands are linear, freshwater marshes that will continue to be fed by urban storm drains. According to the applicant, the restored wetland and habitat will remain in place and will not be removed as a result of the construction of subsequent phases of the planned Expressway. The project will require 17,800 cubic yards cut and 98,000 cubic yards fill and will take about a year and a half to complete. 80,200 cubic yards of soil will be imported.

#### B. PROJECT BACKGROUND

By bridging Route 90 over Culver Boulevard, this project would create a partially gradeseparated intersection at Culver Boulevard and Route 90 (the Marina Freeway). The bridge would speed up traffic on Route 90 between Lincoln Boulevard and the 405 Freeway. Ramps provided in this and the "Culver Loop" project would make it possible to enter the freeway from northbound Culver Boulevard. The intersections of the frontage roads and Culver Boulevard would still be controlled by a traffic light.<sup>1</sup>

The project has long appeared on subregional traffic improvement plans. It appears in the certified Marina del Rey LUP and in the certified Playa Vista LUP. The City of Los Angeles required Playa Capital to "guarantee construction" of the bridge as part of its Phase I mitigation, arguing that significant traffic from Phase One will be routed up Route 90 to the 405 and that the bridge would increase the capacity of Route 90. The City changed the traffic mitigation measures that it originally imposed on Playa Vista, after it receive comments on its certified EIR for Playa Vista Phase I<sup>2</sup> from transportation agencies, including Caltrans<sup>3</sup>. Phase I is the portion of the Playa Vista project located outside the Coastal Zone. The Phase One Playa Vista project includes institutional,

<sup>&</sup>lt;sup>1</sup> Caltrans representatives state that Playa Capital has obtained a Caltrans encroachment permit to "construct ramps to connect Culver Boulevard with the Route 90). However, this work is not part of this application. In November 2001, the Commission approved an application from Playa Vista to do this (see 5-00-382 and A-PLV-5-00-417).

<sup>&</sup>lt;sup>2</sup> (See Haripal Vir, Senior Transportation Engineer, City of Los Angeles: "Playa Vista Project Phase I, Amendment to the Initial Traffic Assessment and Mitigation Letter dated September 16, 1992, EIR No.90-0200 (C) (CUB) (CUZ) (GPA) (SUB) (VAC) (ZC),"

<sup>&</sup>lt;sup>3</sup> Robert Goodell, Chief, Advance Planning Branch, Caltrans District 7; Memorandum to Tom Loftus, State Clearinghouse, re DEIR Playa Vista Phase I 90-0200 SUB (C) (CUZ) (CUB), March 22, 1993

commercial (35,000 sq. ft.), office (1,250,000 sq. ft.) and residential (3,246 dwelling units) development and is expected to generate 44,500 daily trips, and approximately 5,360 peak hour daily trips. The project draft EIR estimates that slightly more than 12% of these trips would be internal to the project. The City required the following mitigation measure with respect to the Culver/Route 90 intersection:

"Culver and Marina Freeway: Guarantee construction of a 56-foot wide three lane westbound portion (or, as an interim measure, two lanes in each direction) of a grade-separated interchange at Culver Boulevard and the 90 freeway with a new freeway-lane striping easterly at a point beyond the Ballona Creek Channel Bridge, all to the satisfaction of Caltrans. Complete the eastbound portion of this interchange if funding is provided by other sources for this location. This would replace the Culver and Marina Freeway measure listed on Page V.L.1-94 of the Draft EIR." (See Exhibit 14, Playa Capital Phase I EIR mitigation measures as amended.)

Caltrans representatives contend that the road is required to accommodate existing and future volumes of traffic on the West Side of Los Angeles, especially on Lincoln Boulevard. The West Side varies in definition, but can be loosely defined as the part of the City of Los Angeles that lies west of La Cienega, south of the Santa Monica Mountains, north of the Airport and that extends to the Pacific Ocean. In a letter provided to the Coastal Commission staff, Aziz Elatter, Senior Environmental Planner for Caltrans outlines the reason the bridge is needed.

#### "Purpose and need of the project.

The project is proposed to relieve traffic congestion and improve safety by extending the Route 90-freeway section across Culver Blvd. It is needed to address existing and forecasted congestion levels due to the increased development in the area. The project will also alleviate congestion-related accidents that are expected to increase as congestion increases, should this project not be developed.

#### Traffic.

Traffic volumes are projected to increase significantly along Route 90 due to ongoing and planned development as well as regional growth to the extent that design year traffic demands are projected to substantially exceed capacity at a number of intersections without improvements. Currently there are over 200 proposed developments in the general area of the Route 90 Corridor, which include Playa Vista (Phase I and II), the Marina del Rey Local Coastal Plan update and the LAX Master Plan. " (Aziz Elattar, Caltrans, Letter).

When questioned about the need for the project based on <u>existing</u> traffic, instead of traffic levels projected as a result of recently approved and proposed projects, Caltrans representatives responded with information that they consider illustrates present

congestion levels, and thus, present need. This includes volume/capacity statistics concerning the present level of service (LOS) at the Route 90 and Culver intersection. In a letter to staff, Caltrans representatives state that in the morning peak hour, the present level of service is LOS D (Eastbound) and C (Westbound). In the evening peak hour, the level of service is LOS E (Eastbound) and LOS F (Westbound). Caltrans representatives explain that these levels of service indicate that presently, the intersection is over or near capacity. They indicate that operating at this level of congestion leads to accidents (Exhibits 3, 4, 10,17, 18, and 29).

Caltrans' representatives contend that the bridge is necessary to maintain the existing "capacity" (flow rates) because traffic levels will increase without any specific future project. They point out that there are additional projects, many of them outside the Coastal Zone, that are expected to further increase demand. They also argue that the bridge is necessary to accommodate traffic from projects that have been approved and are vested that will add to the traffic levels at this and other intersections. Once these approved projects are occupied, they argue, the congestion at this bridge will rise from over and near capacity to extremely over and at capacity (Exhibits 10). Ronald Kosinski, Deputy District Director for Environmental Planning for Caltrans Region 7, indicates that no one project is behind the demand for this project:

"Caltrans has no specific master plan for this or any freeway/expressway. Caltrans' process indicates that as needs are identified; they are forwarded to the California Transportation Commission (CTC) for prioritization and funding. Because of the need generated by work and recreational congestion, this project has been funded as a highly needed project by the CTC. In addition, Caltrans is not in the real estate business, and is legally mandated by law to dispose of unnecessary real estate. This area was designated as needed for this project since it was built in 1972." (Ronald Kosinski, Deputy District Director Division of Environmental Planning, Letter, Sept 19, 2001, Exhibit 10)

Mr. Kosinski continues that given the present congestion of this intersection and the 2% per year annual ambient growth identified by the Southern California Association of Governments, this project is needed. He acknowledges that a number of projects, including Playa Vista and the Airport expansion, will exacerbate the need for the project. However, he maintains, the project is needed because traffic has been increasing due to projects that have been already approved and constructed both inside and outside of the Coastal Zone. Levels of traffic, Caltrans' representative points out, have been rising by about 2 percent per year on the West Side of Los Angeles for no reason that may be attached to any particular project but which represents general increases in destinations in the area and general population increases in greater Los Angeles (Exhibit 10.) Caltrans representatives state that Playa Vista needs the road, but Playa Vista' traffic is not the only reason that the road is needed.

The project before the Commission is substantially identical to the project required by the City in its tract conditions for Playa Vista Phase I. Caltrans representatives indicate that the bridge cost is shared between the City and Caltrans: the City of Los Angeles is paying

for the engineering and design work, and Caltrans will pay for the bridge construction. The mitigation measures proposed in the <u>draft</u> EIR require Playa Vista to pay for the bridge design, but not its construction, but the adopted mitigation measures require Playa Capital to "guarantee construction" of the entire bridge.

**Information about traffic demands in related traffic reports.** The draft Phase One Playa Vista EIR (1991) and the 1995 Entertainment District Amendment to the Phase One Playa Vista EIR that was completed in 1995 each include an analysis of area traffic. The 1991 EIR Appendix O was based on an update of an analysis prepared in 1983 for Los Angeles County by Barton Aschman Associates, a traffic-engineering firm. Kaku Associates further updated the study in 1995, when Playa Capital was considering rehabilitating the old Hughes Aircraft Plant as an Entertainment Media and Technology Center. Kaku estimates that traffic in the area of the project have been increasing at about 4 percent a year. Kaku attributes 1.5 percent of the increase to "ambient growth" and the remainder to identified major projects. In the 1995 amendment to the Phase One Playa Vista EIR (Entertainment and Media District) Kaku acknowledges that some major projects discussed in the 1991 Draft EIR were never constructed; and, at the time of the 1995 amendment to Playa Vista's City permit, some new projects are under discussion. In spite of the withdrawal of some proposed projects, many projects are and have been anticipated on the West Side of Los Angeles. Kaku figures indicate that at peak hours the level of service in 1990 was LOS E and D except for the evening westbound and the morning eastbound, when it exceeded capacity --level F. The consultant indicated that traffic levels were expected to increase without the Playa Vista project. Level F if the most severe level of heavy traffic, where traffic is approaching gridlock (Exhibits 13.)

1997 Intersection Operating Conditions (source: First Phase Playa Vista Draft EIR)							
		Existing 1990		1997 without First		1997 with First	
				Phase Playa Vista		Phase Playa Vista	
Intersection	Period	V/C	LOS	V/C	LOS	V/C	LOS
Culver/Marina	AM	1.323	F	1.679	F	1.719	F
Freeway East	PM	0.943	E	1.265	F	1.281	F
bound ramps							
Culver/Marina	AM	0.834	D	1.115	F	1.128	F
Freeway West	PM	1.036	F	1.474	F	1.527	F
bound ramps							

The 1995 Amendment to the Phase I EIR for Playa Vista, required for the development of an Entertainment and Media Center in Area D, analyzes the then current levels of service and the level of service anticipated without the Phase I Playa Vista project (ambient levels of growth) (Exhibit 12). This document anticipates that Phase One Playa Vista, will generate almost twice as much traffic as all the other projects in the area combined and after development of Phase I Playa Vista, the level of service at Culver/Route 90 will rise above capacity to Level of Service F in all directions. Level of Service F is defined as near- gridlock (Exhibit 13). The Commission notes, however, that the data that Caltrans provided with this application shows improvement at these intersections in 1993.

However, as noted above, the level of service at these intersections is shown as better in the 1995 study that was shown in 1990. It is unclear whether traffic had decreased between 1991 and 1995 as a result of the recession in those years, or whether there were differences in the studies' methodology or the time of year at which they were conducted.

The information provided by these studies is consistent with Caltrans' contention that some improvement is necessary to maintain existing levels of service even without the Playa Vista project. The Commission notes that the study prepared by Kaku for the amendment to the Playa Vista Plan in 1995 assumes that each year, traffic will go up by 1.5% instead of 2% as indicated by Caltrans. Both studies show that the levels of service are high and approach gridlock at least at some peak hours. It is clear, based on the information provided by Caltrans and others, that there is a need for road widening or other measures to alleviate present traffic congestion. These and other measures will also be needed in the near future when already-approved and vested projects are occupied.

#### C. ENVIRONMENTALLY SENSITIVE HABITAT AREAS/ WETLANDS.

A spotty mixture of saltbush scrub and introduced plants dominates the 18.83 acres of the median strip that was not previously paved for the boat/recreational vehicle storage yard. (As noted above Caltrans estimates that the entire median strip, not including the cross streets, is about 18.8 acres.) Parallel to the roadway, near the center of the median, there is a ditch that is fed from urban storm drains. The ditch supports grasses, reeds and cattails and other freshwater wetland plants.

The Commission staff biologist, John Dixon, visited the site on September 18, 2001. A portion of his evaluation follows:

Route 90, Marina Highway: This project will impact small areas of existing manmade and degraded wetland. There is a ditch that carries urban runoff parallel to the highway and then curves south where it widens into a small freshwater marsh before entering a culvert. The California wetland delineation, as marked by stakes and tape, appears to include all stands of wetland vegetation. There is a great deal of exotic vegetation, such as pampas grass, that should be removed. (Dixon, 9/18/2001)

As noted above, a wetland delineation (Psomas, 1995) has shown that there are 1.81 acres of state jurisdictional wetlands on the median strip, some of which is open water. Within and adjacent to the inundated area, there is a large and vigorous stand of pampas grass. As the slope rises, there is "saltbush scrub" habitat, dominated by Saltbush (*Atriplex lentiforma*) and Coyote bush (*Baccharis pilularis*.) According to the Psomas survey, and the Streambed Alteration Agreement, (June, 2001) the area supports a number of bird species including the great blue heron, barn swallows, Allen's

<sup>&</sup>lt;sup>4</sup> The Commission also notes that the Kaku study shows the Culver Boulevard/Route 90 intersection more congested than Caltrans estimates in its recent letters (Exhibit 19 page 2).

hummingbirds, American goldfinches, northern mocking birds, mourning doves and other common upland birds such as sparrows (Exhibit 8, 1601 permit.) The marsh is degraded and of limited habitat value. Nevertheless, it is a wetland as defined by the Commission's regulations and as confirmed by the Commission's biologist.

The applicant originally proposed to fill two sections of the marsh totaling 0.23 acres and to redirect water in those sections to underground culverts. The original design required the fill to accommodate ramps that would have connected the bridge to the existing travel lanes. In addition, the applicant originally identified 0.09 acres of wetland that would not be filled, but that would be so close to the grading that the area would suffer "temporary impacts." Originally the applicant stated that it is not feasible to elevate these ramps. Now the applicant has changed its request and is now proposing a design, the "Modified East Alternative," that would not fill or shade wetlands. The applicant has also proposed to remove the pampas grass, iceplant and other invasive plants that have severely impacted the productivity of the existing wetlands, and to increase the biological function of the wetlands and adjoining area. The freshwater marsh is a vegetated ditch that will continue to be fed by urban storm drains.

The wetland area is protected under Section 30233 of the Coastal Act, which allows wetland fill only for limited purposes, and then, if there is no feasible less environmentally damaging alternative. Since no fill is proposed, the development is consistent with Section 30233. The wetland and upland areas are important habitat areas because they are wetlands within the Ballona wetlands system. They are also near other wetland and upland areas that have habitat value, and that are being considered for park acquisition. Extensive research on the viability of habitat preserves emphasize that large, contiguous parcels provide more productive habitat than small scattered, narrow parcels that are interspersed with other uses. Larger parcels and parcels contiguous to parcels that support similar habitat enhance the productivity and diversity of both parcels by providing additional opportunities for nesting and forage, and more protection from disturbance.

Section 30240 requires:

#### Section 30240 Environmentally sensitive habitat areas; adjacent developments

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The streambed alteration agreement 5-265-00 approved by the Department of Fish and Game in June, 2001 indicates that while many birds and other animals found in the Route 90 median are typical upland birds found in nearby developed areas, others animals that

use the site are dependent on adjoining Area C, Ballona Creek and the Ballona wetlands. These include raptors and the great blue heron. Roads near wetlands can have other impacts: noise and siltation during construction can disturb animals; siltation and runoff during and after construction can damage water quality. Moreover, the "Marina Drain" flows downstream into two other areas of the Ballona Wetlands, Areas A and C.

Invasive plants, silt and chemicals can travel downstream into areas identified for restoration. Seeds and plant fragments can move down the waterway and reinvade restoration areas. Caltrans has particularly mentioned iceplant (*Carpobrotus edulis*) and Pampas grass, which have invaded the wetland and upland areas on this and adjacent sites, but other introduced plants that are difficult to remove during restoration efforts are also found on the site. These include the Garland daisy, (*Chrysanthemum coronarium*) and Bermuda grass. For this reason, Caltrans has offered to remove invasive plants from this site and enhance the onsite wetlands.

Invasive plants can overwhelm habitat areas and undermine restoration projects. In nearby Ballona Lagoon, the initial restoration that was attempted in 1981 was overwhelmed by iceplant and garland daisies, which the City removed in a second restoration, funded by the California Coastal Conservancy in 1995-96. In areas adjacent to the Freshwater Marsh (approved by the Commission in CDP CDP-5-91-463), and other parts of Playa Vista Areas A, B and C, the extent of the areas covered with pampas grass and iceplant has increased in recent years.

Secondly, the waterway can carry chemicals and road discharges down stream. Therefore the Commission is also imposing conditions to protect the Marina Drain from discharges, runoff and siltation (see below in the Water Quality section). The Commission has further conditioned the project to assure that no fill or disturbance of wetland areas on the site, or siltation into them, will occur.

At hearings on a road-widening project in nearby Area C (5-01-382/A-5-PLV-00-417), the Commission received information indicating that lighting and noise associated with roads can have impacts on habitat areas (Substantive File Documents). Night lighting can disrupt the foraging and breeding of native reptiles, insects and amphibians. The Commission has therefore imposed conditions addressing lighting to protect the habitat on the site and on adjacent Area C so that lights from the road will not shine onto the wetland and habitat areas in the project areas and adjacent to it. The Commission has further conditioned the project to forbid night construction, and to require that during construction the applicant survey and avoid rare plants and nesting birds. The applicant acknowledges that the presence of a highway will have some impacts in terms of noise, lighting and disturbance during construction and subsequent operation. As mitigation for those impacts, the applicant has proposed to enhance the habitat areas found on the site and to use native plants in the fill slopes that are compatible with the wetland and upland habitat now found on the site. The Commission has required, in Special Conditions 1, 3 and 4 that impacts of construction be limited, and in Special Condition 2, that the proposed enhancement be planned and designed consistent with nearby habitat and with the soils found on the project site, and be monitored intensively for five years, and thereafter, on a

schedule that is consistent with Caltrans regular maintenance schedule, but no less often than once a year. As conditioned, the project's impacts on onsite and adjacent habitat areas will be minimized and the project itself should, in the future, buffer adjacent habitat area from impacts of nearby developed areas. As proposed and as conditioned the project is consistent with Coastal Act Sections 30233 and 30240 with respect to impacts on habitat.

#### D. WATER QUALITY MARINE RESOURCES

Section 30230 requires the protection of marine resources.

#### **Section 30230**

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Roads are major sources of pollutants that flow into water bodies. The new section of road proposed in the proposed project will drain to the Marina Drain, which drains into Areas C and A, Ballona wetlands, and ultimately to Marina del Rey. In order to protect water bodies and water quality from polluted run-off, the applicant proposes a number of measures. Caltrans encourages trash removal programs and plans to design the freeway to reduce the discharge of polluted water. Caltrans indicates that it opposes use of fossil filters on highways because filters can clog during heavy rains, resulting in ponding on the road surface, and presenting a hazard to motorists.

The Caltrans program for Best Management Practices on freeways includes the following:

"The latest edition of the Caltrans Storm Water Management Plan dated August 2001 has the following approved Best Management Practices (BMPs) that Caltrans has found to be effective in treating highway runoff at the present time. Caltrans is continually conducting research and evaluation of all types of BMP products to determine what other BMPs Caltrans can adopt for use. Caltrans guidance design manuals recommend Source Control BMPs over Treatment Control BMPs as generally being more effective in addressing water quality. Source Control BMPs treat water prior to entry into the system, whereas Treatment Control BMPs treat water after it has entered the system.

#### A. Source Control BMPs:

- 1. Preservation of Existing Vegetation
- 2. Concentrated Flow Conveyance System
  - a. Ditches, Berms, Dikes, and Swales

- b. Overside Drains
- c. Flared Culvert End Sections
- d. Outlet Protection/Velocity Dissipation Devices
- 3. Slope/ Surface Protection Systems
  - a. Vegetated Surfaces
  - b. Hard Surfaces
- B. Treatment Control BMPs:
  - 1. Biofiltration: Strips/Swales
  - 2. Infiltration Basins
  - 3. Detention Devices
  - 4. Traction Sand Traps (Only applies in Lake Tahoe Area)
  - 5. Dry Weather Flow Diversion

For this project, the recently submitted Caltrans 2002 Water Quality Management Plan for this project includes the following:

- "Treatment train of BMPs including grated inlets, trash and gross solids removal devices, and bioswale systems
- Treats runoff from both existing and new impervious areas, as well as the road right-of-way
- Should result in improved water quality overall as compared to pre-project conditions due to the extensive amount of existing impervious areas that will be treated via bioswales.
- Meets and exceeds the Los Angeles County Standard Urban Stormwater Mitigation Plan (SUSMP) and also the Caltrans Stormwater Management Plan (SWMP) requirements." (See Exhibit 27 for a detailed description of Caltrans water quality control plan.)

Research conducted by Caltrans thus far has indicated that Drain Inlet Inserts (e.g. Fossil Filters) is an ineffective application for this type of highway project. In addition, Fossil Filters may present a safety hazard for the motoring public due to the potential for drain inlet failure, which would lead to flooding on the adjacent roadway. Several studies have been conducted by Caltrans in regards to their performance for use on some highway facilities.

The project drains into Area C Playa Vista, and from this area, via culverts, into Area A and into the Marina del Rey, an impaired water body. The RWQCB is investigating measures to improve the water quality of the Marina del Rey. Important bird, invertebrate and fish species live in the area and feed in these waters, and the area has high human recreational use. Therefore it is appropriate to employ as many measures as feasible to ensure that the water discharged from this project is improved in quality from its present condition or that is least no worse, after the increased automobile traffic that will be attracted by the bridge. The Commission has required in its conditions, measures to improve the quality of water discharged into the habitat. The Commission finds that it is possible to improve the quality of water discharged from the project by requiring 1)

measures during construction to reduce runoff and siltation, and 2) on site filtration area in the median strip to filter road runoff before in enters the wetlands on the site, 3) requiring these measures to be effective in an 85<sup>th</sup> percentile storm.

The wetlands on site are essentially exposed portions of existing underground storm drains that serve industrial, commercial and residential areas of Venice. Because they are storm drains, they are already polluted. Moreover, run off from roads is polluted with oil and gasoline by-products.

In the past, undeveloped land in this area was for years used for unregulated dumping and for agricultural dumping. When Playa Capital excavated the freshwater marsh in Area B, they discovered that past oil drilling and industrial disposal had resulted in the disposal of contaminated soils near the surface. Caltrans asserts that it conducted tests in this area, and that no contaminated soils were revealed. Caltrans indicates that it has already carried out extensive onsite tests for contaminants. Reports show that consultants conducted a literature search that showed no records of any contaminating industry on the site and two test borings at the edge of the present frontage road. If the tests are accurate, there is little chance of encountering contaminated sediments. If, during construction, the applicant discovers that the soils are contaminated, the Regional Water Quality Board has standards concerning appropriate methods of excavation and disposal of contaminated sediments. Therefore the Commission does not require any additional testing or disposal of sediments.

The most frequent soil contaminant found in road widening projects is aerially deposited lead from exhaust. Initial 1996 studies by Law, Crandall, on behalf of Maguire Thomas indicate that lead is present. (See Substantive File Documents; item 19, Law, Crandall for reference.) Caltrans normally disposes of lead contaminated sediments by burying them under roads. The Caltrans has a permit form the State Water Board to do this. The State Water Board requires that reburying lead take place a certain distance above ground water. This coastal development permit does not allow contaminated soils from offsite to be used for fill under the ramps.

Although the Commission has imposed standards to assure that the development does not add to pollutants of down stream waters, it does not require that the on site development "clean up" the stormwater that comes onto the property from upstream. Two correspondents, notably Heal the Bay and the Santa Monica Bay Keeper (Exhibits 27 and 28), have pointed out that the Marina del Rey, which is the receiving water body of the Marina Drain, is an impaired water body. They indicate that Caltrans may have an obligation to improve the water quality of any water coming down the drain before it leaves the site and discharges into the impaired water body. Caltrans has proposed BMP's,

<sup>&</sup>lt;sup>5</sup> See: Law, Crandall Inc., "Report of Lead Assessment, Playa Vista STIP Improvements, Lincoln Corridor and Marina Freeway Corridor, Los Angeles, California," prepared for Maguire Thomas Partners, Los Angeles, California, January 19, 1996; and Law, Crandall Inc., "Report of Phase I Environmental Assessment, Playa Vista STIP; State Route 90, (Marina Freeway), from Lincoln Boulevard to Centinela Avenue, Playa Vista Project;" prepared for Maguire Thomas Partners, Los Angeles, California, February 23, 1996; in project file.

which they assert will improve the quality of water discharged for the site. The Commission finds that it cannot require such an improvement because it is not related to the impacts of the development proposed. Therefore it has required the applicant only to control only the pollutants that are attributable to the development itself.

In addition, the Commission is requiring limits to the volume and velocity of runoff from the developed site. The applicant asserts that with the reduced pollutant load that it expects. that it should not also be required to avoid increasing the volume of runoff. An increase in impervious surfaces disrupts the natural attenuation of runoff by natural drainage features and surfaces, and causes an increased peak runoff rate and volume. This can cause erosion, scouring, disturbance of downstream habitats, and increased peak flood discharge. The Commission routinely requires that developments mitigate for the increased volume and velocity of runoff to prevent the degradation that it can cause. In this case the volume and velocity is held to no increase because of the proximity and sensitivity of the Ballona Wetlands and associated ecosystems. Moreover, the Commission has imposed requirements on the pollutant concentrations and mass loadings in runoff. With the increased amount of runoff from the developed site due to the increase in impervious surfaces, there can be a decrease in concentration of pollutants per-unit water from pre-development levels, while still being an increase in the total amount of pollutants. Therefore the Commission is imposing conditions ensuring that both mass loading and concentration of pollutants are minimized. These measures will protect the water quality of receiving waters.

The City of Los Angeles is subject to RWQCB orders to cleanup its runoff. As the City complies with these orders, the quality of the water entering this property and leaving it will gradually improve. It is not the Commission's responsibility to enforce citywide standards that are the responsibility of the RWQCB to develop, adopt and enforce. It is only responsible to assure that the development approved does not make the situation worse on the property or downstream for the development. However, the Commission is requiring, as noted above, that the treatment for runoff from this site be sized to treat water discharged during an 85<sup>th</sup> percentile storm. The applicant asserts, as noted in Exhibit 27 that the BMP's that it plans to incorporate into its project will improve the quality of the water discharged from the site, although it states that the quantity discharged will be slightly more than the present quantity. In this way only a minimal amount of pollution attributable to this development will enter the Marina Drain. As conditioned the project is consistent with Coastal Act Sections 30230 and 30231 in terms of its potential impacts on water quality.

The Commission notes, however, that certain BMPs like hydroseeding or mulching may utilize plants that could be detrimental to the wetland or surrounding habitat by introducing pants, such as iceplant (*Carpobrotus edulis*) or Bermuda grass that can invade wetlands areas or displace native species. For that reason, the lists of species proposed for temporary slope stabilization or drainage swales must be provided as part of the landscaping plan for review and approval of the Executive Director to assure that no invasive species are used, and that, as much as possible native species are used. For that reason, other methods, such as jute matting may need to be employed to prevent

siltation from graded slopes. The Commission therefore requires that the applicant shall use methods of erosion and sediment control that do not use introduced vegetation to stabilize the soils. As further conditioned to assure that the water quality protection BMPs also comply with standards adopted to protect habitat, the project complies with Coastal Act Sections 30230 and 3020 with respect to the effect on natural and marine resources.

#### E. PUBLIC SHORELINE ACCESS AND RECREATION

Section 30210 requires that maximum access to the coast be provided. Section 30223 requires the reservation of upland that areas necessary to support coastal recreation. The project will allow increased speed and volume on an east-west traffic route that can deliver inner city and East County beach goers to the Venice and Playa del Rey beaches and to Marina del Rey. Although the project is designed to reduce commercial and commuter traffic loads on Lincoln Boulevard and on east-west routes during peak commuter hours, it can and will serve to improve vehicular access to the coast on weekends as well.

There is a bicycle lane in the median strip of Culver Boulevard east of the Coastal Zone boundary. The bicycle and jogging path extends from a park at Overland Avenue Culver City to the Culver City/Los Angeles boundary and from there to a point where a self-storage unit occupies the median strip, about two blocks east of Route 90. Project engineers state that the distance between the bridge supports is wide enough to accommodate additional traffic lanes and a bicycle lane on Culver Boulevard. The additional lanes, including the bicycle lane, would be located along Culver Boulevard and travel under the bridge. No recreation on the site is proposed or appropriate. As proposed, the project is consistent with the development of additional recreational facilities, will improve and enhance public access to the coast and is consistent with Sections 30210 and 30223 of the Coastal Act.

#### F. DEVELOPMENT

The Coastal Act provides standards that the Commission must use in approving development. Section 30250 requires that most development be sited in existing developed areas to minimize development in relatively untouched rural areas. Section 30252 encourages investigations of non-automobile modes of travel to reduce competition for coastal access roads.

#### Section 30250.

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed

areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

#### **Section 30252.**

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Based on these provisions of the Coastal Act, the Commission and City of Los Angeles have approved coastal development permits for projects with relatively high levels of density in the immediate area of the proposed project. These include projects adjacent to Lincoln Boulevard (also see above and the Substantive File documents). All these projects, along with projects outside that Coastal Zone have individually and cumulatively, contributed to the increasing levels of traffic on Lincoln Boulevard, Culver Boulevard and the Marina Freeway. (Most notably the Commission found no substantial issue on two City of Los Angeles-approved projects: one that included a 334 unit (moderate income) apartment building, and a 166 unit building; the other included 800 (moderate income) apartments and two 16 story towers providing 512 condominiums on an 18.9 acre site. Both projects were located on Lincoln Boulevard. (See Substantive File documents above for the numbers of the two appeals.) The Commission has approved LUP's with similar impacts, notably the Marina del Rey Ballona LUP in 1984. In 1987 the Commission reiterated its approval of the Marina del Rey Ballona LUP in LUP's applying to the City and County areas of the Marina del Rey and Playa Vista (Marina del Rey LUP 1987, Playa Vista LUP, 1987.) In 1995 the Commission approved an amended LCP for the Marina del Rey that would result in 2,700 daily peak hour trips and would include multi-story development on most residential parcels. In effect, the Commission's assumption has been that development and the concentrated infrastructure to serve it would be located in Los Angeles and not elsewhere, in more remote areas along the coast. All of these approvals presumed that the infrastructure serving Lincoln Boulevard, including Lincoln, Culver, Jefferson, Washington and Venice Boulevards, would require road improvements. (Exhibits 25-27.) The plan approvals were granted before the courts issued the Bolsa Chica decision.

Part of the thinking in approving higher density development in some areas is the theory that higher density development could support transit alternatives as required in Section 30252. In addition to allowing high-density development and providing lists of road improvements, the Marina del Rey Ballona LUP (1984) and its successors required the

development of mass transit alternatives. LUP policies required that some form of transit be part of the transportation improvement package. The 1987 Marina del Rey LUP and the related Playa Vista LUP require (1) development of jitney systems integrated between the City areas Playa del Rey, Palms and Venice, and the County area, which is the Marina del Rey proper, (2) development of park and ride lots for commuter express buses that would travel to Downtown Los Angeles, and (3) reservation of right-of-way along Lincoln Boulevard for a transit way. The City has also required jitneys within Playa Vista. However, the transportation improvements that the Commission has actually reviewed to date concentrate on road widening and on traffic management methods to increase vehicular speeds. Transit under consideration by the Department of Beaches and Harbors for the Marina del Rey consists of jitneys and other short haul buses, but no improvements that might accommodate the ten to fifteen mile work trip that the average Los Angeles resident makes. Playa Capital's traffic consultant, Kaku, indicates that it estimates that no more than 10% of job commuters in Playa Vista Phase I are likely to use transit. Culver Boulevard is the site of a former railroad right-of-way that extends west and south from Overland Avenue Culver City, through Area C, then through the wetlands and then south through the South Bay. Even though part of it is improved as a bikeway, there is no analysis of methods of using this older right-of-way for a dedicated transit way or for other alternative transportation. This bridge is wide enough to accommodate such a bikeway.

While the project itself is the road, not the development requiring the road. The Commission must consider whether approval of this project may commit the area to automobile transportation. There is a contention that wider and faster roads attract cars by improving the convenience of the automobile. Approval of this project does not commit the area to automobile-based transportation because the bridge is wide enough to accommodate bikeways or a bus lane. As designed the project is consistent with Section 30252 of the Coastal Act.

#### G CERTIFIED LAND USE PLANS.

This bridge is one of the road-widening projects incorporated into the certified Land Use Plan for Playa Vista, even though it is technically outside of the study area. In 1984 the Commission approved the Marina del Rey/Ballona LUP. This bridge is adopted as part of the Circulation Element of the plan, even though Los Angeles County prepared the LUP and the roadway is owned by Caltrans and located in the City of Los Angeles (Exhibit 27.) Again in 1987, the Commission approved parallel LUP's for the Marina del Rey and, in the City of Los Angeles, the Playa Vista LUP that showed the identical transportation system measures, including the present project. The City of Los Angeles amended its Palms Mar Vista Del Rey Community Plan to conform with the land use designations and development standards of the certified Playa Vista LUP. No implementation ordinances have been approved for this plan.

<sup>&</sup>lt;sup>6</sup> The South Bay comprises the Cities El Segundo, Manhattan Beach, Hermosa Beach and Redondo Beach and cities directly inland of them such as Lynwood and Lomita. They are directly inland of a bay extending from Ballona Creek to the Palos Verdes Peninsula.

As noted above, the Marina del Rey and Playa Vista LUP's, certified by the Commission in 1987, encourage the reservation of transit corridors and the adoption of shuttle programs. However, they rely on development caps and widened roadways to provide the transportation capacity necessary for the anticipated high-density development. All include high levels of density and multiple traffic impacts and provides for widened roadways. The plans provide for the extension of Admiralty Way to Culver Boulevard, widening Lincoln Boulevard to eight lanes, widening Culver and Jefferson Boulevards, widening other roads, and extending the Marina Freeway. The certified Playa Vista Land Use Plan shows Culver Boulevard as an alternative transportation corridor, and includes policies that provide for widening Culver Boulevard and extending the Marina Freeway. With respect to this project, Policy 4.18 of the Playa Vista LUP states:

Page 44, Policy 18. Extend the Marina Freeway, just east of Culver Boulevard, with a grade-separated interchange at their intersection.

Although these permit and LUP approvals seemed to assume that roadways to accommodate the development would be approved, until the local coastal program is fully certified, the standard of review for the roadways themselves is Chapter 3 of the Coastal Act. The Commission, faced with more detailed information about the impacts of the development conceptually approved in the Land Use Plans, is able to reexamine the effects of the development. A Land Use Plan is not binding on the Commission and any development listed in an LUP is subject to review based on the Coastal Act. The Commission has also noted that the standard of review for any amendments to the land use plans would be the policies of Chapter 3. Therefore, in the absence of a fully certified LCP, the Commission's earlier decisions that the "area" could accommodate high-density development does not commit the Commission to approving development that would not otherwise be approvable consistent with the policies of Chapter 3.

#### H. VISUAL IMPACTS.

Section 30251 requires that development be sited and designed to minimize visual impacts.

#### **Section 30251.**

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The Controller of the State of California, as the custodian the land adjacent to this road, Playa Vista Area C, which is held in trust for the State of California, has clearly stated her intent to transfer the land to the Department of Parks and Recreation for development as a park. The area is not now a public park and will not be one until the Legislature acts to designate the land as a park. Nevertheless, in considering the design of public structures adjacent to the land, the Commission must consider the compatibility of the proposed development with a prospective public park and with public use of the area. In this instance, compatibility includes the impacts on views to and from the bridge and the compatibility of the bridge and its design with future recreational facilities.

The bridge will be elevated roughly 30 feet above roadway level. This will provide a view of Area C, but also will be visible from Area C. The bridge will be a standard concrete bridge. Caltrans plans three-foot high tapered concrete solid rails (type 736) that provide no views through the rails. There will be no view of either the development proposed on Area C or of the possible urban park from the bridge from compact cars, although the drivers and passengers in SUV's and other taller vehicles will be able to see over the rails. The bridge will have concrete pilings, which will be enlarged with tapered supports at the head of the columns. The bridge will be relatively low and unobtrusive and will not be visually obtrusive from either public or private areas. If the rails provided views of the area, the bridge would also be more interesting visually. The ramps extending above the median will be lower than the bridge but will also be visible.

The bridge has no significant impacts on public views. It is adjacent to structures that range from 20 to 40 feet in height. It is low enough to be subordinate to its setting. The project is consistent with the view protection policies of the Coastal Act.

#### I. HAZARDS.

The Coastal Act provides that development shall be sited and designed to avoid hazards. Section 30253 requires, in part:

#### **Section 30253.**

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

After the discovery of high levels of soil gas in Area D Playa Vista, the public has consistently expressed concern about the levels of soil gas in nearby areas. Tests conducted for a nearby project (Playa Vista Phase I, see substantive file documents)

showed high levels of soil gas in an area south of Jefferson Boulevard. A report conducted by the City of Los Angeles City Legislative Analyst did not identify significant soil gas accumulations north of Ballona Creek. The present bridge and ramp work that is within the jurisdiction of the Commission is about half a mile north of the part of the Playa Vista project that has been shown to have high concentrations of soil gas. Caltrans sought an opinion from Gustavo Ortega, a Caltrans staff geologist, concerning the possible hazard of soil gas to this project. The geologist replied that methane is a potential hazard in confined spaces, but that there were no confined spaces proposed as part of the development of this bridge and ramp. Moreover, the Coastal Commission staff geologist, in an analysis of a proposal to expand Culver Boulevard, A-5-PLV-00-417, has indicated that soil gas does not pose a hazard to roads or the vehicles on them because soil gas does not accumulate where there are no enclosed structures.

The soils in this area are made up of sediments deposited by creeks and other water bodies. There is a relatively high groundwater table. The applicant's geologists have taken these conditions into account and designed to accommodate these potential hazards. The project is not located in an area subject to other hazards, such as landslides or flooding. As such, the project is consistent with Section 30253 of the Coastal Act.

## J ARCHAEOLOGICAL, HISTORICAL AND PALEONTOLOGICAL DEPOSITS

The part of this project outside the Coastal Zone is within an area that is described in confidential documents as encompassing LAN 54, a registered archaeological site. An adjoining property owner is required to recover the part of the site that is located on its property. Caltrans' archaeologist has reviewed these documents and disputes their conclusions; nevertheless, Caltrans plans to have a qualified archaeological monitor and a Native American monitor on the site during construction. Caltrans has not provided any statement from the State Historic Preservation Officer as to the absence of a site where the bridge and ramps are planned. Section 30244 of the Coastal Act requires:

#### Section 30244

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Caltrans has not provided evidence that the State Historic Preservation Officer (SHPO) has evaluated this site or that SHPO has confirmed that the site lies outside any known archaeological sites and would not impact such sites. Caltrans has not demonstrated that this project is consistent with Section 30244 of the Coastal Act. Only as conditioned to (1) evaluate the project in light of current confidential reports, and (2) obtain concurrence of the State Historic Preservation Officer with such evaluation can the Commission find this development consistent with Section 30244 of the Coastal Act. Pursuant to these requirements, the Commission is requiring a second review of the site in light of newly assembled information, and that a qualified archaeological monitor be on site during

grading of those portions of the project that are located within the Coastal Zone. As is usually required, if any resources are discovered, work must stop to determine whether activities are necessary to preserve the resources and whether these activities require an amendment to this permit. As conditioned the proposed project is consistent with Section 30244 of the Coastal Act.

#### K. UNPERMITTED DEVELOPMENT

Development has occurred on site without benefit of the required coastal development permit, including demolition of leased operations, which included the recreational vehicle storage facility, portions of the pottery store and an exercise facility located within the coastal zone. Consequently, the work that was undertaken constitutes development that requires a coastal development permit.

Consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

#### L. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's administrative regulations requires Commission approval of any coastal development permit application to be supported by a finding that the application, as conditioned by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effects that the project may have on the environment.

In this case, this particular project is the result of the consideration of several alternatives. The applicant originally proposed to fill 0.23 acres of wetlands and to mitigate the fill on the site. The originally proposed project could have had significant adverse impacts, but the applicant has avoided those impacts by changing its project, relocating the ramps away from the wetland, and mitigating the remaining impacts through the implementation of the conditions proposed. After the Commission's initial hearing, the applicant proposed to avoid fill by bridging the wetlands, an alternative that would have left a tenth of an acre of wetlands in deep shade (Bridge Alternative). The applicant has now changed its project to avoid the fill and shading altogether, and to enhance the resources of the site (Modified East Alternative). The applicant also considered an alternative proposed by the public, which would relocate the traffic lanes to the inland side of the median. Because this alternative would have resulted in fill of the wetland area, this fourth alternative was rejected.

There are no additional feasible alternatives or mitigation measures available that could substantially lessen any remaining significant adverse impact the activity may have on the environment. Therefore, the proposed project is consistent with CEQA and the policies of the Coastal Act.

# APPENDIX A SUBSTANTIVE FILE DOCUMENTS:

- Environmental Impact Report, First Phase Project for Playa Vista, EIR No. 90-0200-SUB(c)(CUZ)(CUB) State Clearinghouse No. 90010510; Appendix D Mitigation and Monitoring Program; Mitigation Measures Tracts 49104 and 52092.
- 2. Haripal S. Vir, Senior Transportation Engineer, Department of Transportation, City of Los Angeles, Memorandum to Merryl Edelstein, Senior Planner "Initial Traffic Assessment and Mitigation Measures for the proposed Playa Vista Project at the Intersection of Lincoln Boulevard and Jefferson Boulevard, EIR no.90-0200 (C) (CUB) (CUZ) (GPA) (SUB) (VAC) (ZC), September 16, 1992
- Haripal S. Vir, Senior Transportation Engineer, Department of Transportation, City of Los Angeles, Memorandum to Merryl Edelstein, Senior Planner "Playa Vista Project Phase I, Amendment to the Initial Traffic Assessment and Mitigation Letter dated September 16, 1992, EIR No.90-0200 (C) (CUB) (CUZ) (GPA) (SUB) (VAC) (ZC)," revised May 24, 1993.
- 4. City of Los Angeles Mitigation Monitoring and Reporting Program Exhibit "C "As Amended To Include Condition of Approval No. 96 as Required by Condition of Approval NO. 12 of Vesting Tentative Tract no. 49104 (Exhibit "B") and Condition of Approval No.'s 141, 141, 144, 145, 150, and 151 as Required by the Modification to VTTM 49104 Approved by the City Council on December 8, 1995 Exhibit "A".
- 5. City of Los Angeles, City Council, Action: Appeals against the Planning Commission's Approval of Tentative Tract 52092 and Modification of Tract 49104 for Property near Centinela Avenue and Jefferson Boulevard in the Playa Vista Area, December 8, 1995.
- 6. Playa Vista Entertainment Media and Technology District, Mitigated Negative Declaration, Playa Vista Plant Site (Addendum to Environmental Impact Report First Phase Project for Playa Vista), August 1995.
- 7. Los Angeles County, Marina del Rey/Ballona LUP, Certified 1984.
- 8. Los Angeles County, Marina del Rey LUP, Certified 1987.
- 9. City of Los Angeles, Playa Vista LUP, Certified1987.
- 10. Bolsa Chica Land Trust v. Superior Ct. (1999) 71 Cal. App. 4<sup>th</sup> 493.
- 11. <u>Psomas Associates, State Route 90/Cullver Flyover:</u> Jurisdictional Wetlands, Streambeds and Waters of the United States, December 1995.
- 12. AGRA Earth and Environmental Inc., "Final Geotechnical Design Report, Route 90 Extension From 0.38 Km East Centinela Ave To 0.23 Km East of Mindanao Way, Los Angeles California EA 1693U1, 07-LA-KP 1.2/1.9, June 30, 2000."
- 13. Caltrans: Alternatives analysis (1) and (2) regarding the Route 90 bridge.
- 14. Jerry B. Baxter, District Director, Caltrans District 7, letter to Con Howe, Director of Planning, City of Los Angeles, re Playa Vista Traffic Mitigation Measures, September 10,1993.
- 15. Robert Goodell, Chief, Advance Planning Branch, Caltrans District 7; Memorandum to Tom Loftus, State Clearinghouse, re DEIR Playa Vista Phase I 90-0200 SUB (C) (CUZ) (CUB), March 22, 1993.

- Coastal Development Permits and Appeals: A-5-VEN-98-222 (EMC Snyder); A-5-90-653 (Channel Gateway); 5-91-463 (Maguire Thomas); 5-91-463A2, 5-91-463R; 5-91-463R2: 5-00-139W; extended (October 1997), currently expired; 5-91-463, 5-91-463A2, 5-91-463R, 5-95-148, permit waiver 5-00-139, 5-91-463, 5-98-164, A-5-PDR 99-130/5-99-151; 6-97-161, A-5-PLV-01-281/5-01-223; A-5-PV-00-417/5-01-382; 5-98-164; 5-98-164A, A-266-77, A-5-RPV-93-005; 5-82-479.
- 17. City of Los Angeles Bureau of Engineering Staff Report, No. 95-03 –August 2, 1995
- LADOT Inter-departmental correspondence --Amendment of Initial Traffic Assessment and Mitigation Letter dated September 16, 1992 --Revised May 24, 1993.
- Law, Crandall Inc., "Report of Lead Assessment, Playa Vista STIP Improvements, Lincoln Corridor and Marina Freeway Corridor, Los Angeles, California," prepared for Maguire Thomas Partners, Los Angeles, California, January 19, 1996.
- Law, Crandall Inc., "Report of Phase I Environmental Assessment, Playa Vista STIP; State Route 90, (Marina Freeway), from Lincoln Boulevard to Centinela Avenue, Playa Vista Project;" prepared for Maguire Thomas Partners, Los Angeles, California, February 23, 1996.
- 21. City of Los Angeles City Engineer, Memorandum <u>Public Works review of ETI report titled "Subsurface Geo-chemical Assessment of Methane Gas</u>
  Occurrences" for the Playa Vista project; file 1996-092; May 10, 2000
- 22. Victor T. Jones, Rufus J. LeBlanc, Jr., and Patrick N. Agostino, Exploration Technologies, Inc, <u>Subsurface Geotechnical Assessment of Methane Gas Occurrences</u>. Playa Vista First Phase Project. April 17, 2000. [Also referred to as the Jones Report or "the ETI report."]
- 23. Camp Dresser and McKee 2000, "Soil gas sampling and analysis for portions of Playa Vista Areas A and C near Culver Boulevard Widening Project" 4 page geologic letter report to Maria P Hoye dated 27 November, 2000 and signed by A. J. Skidmore and M. Zych (RG).
- 24. Mark Johnsson, Senior Geologist, California Coastal Commission, Memorandum: "Culver Boulevard Widening Project and Potential Soil Methane Hazards"
- 25. Gustavo Ortega, C.E.G., C. HG., Memorandum, January 24, 2001 to Ron Kosinski, <u>Additional Information LA-01-KP 48.9 ad KP 49.0</u> "Addressing ...Some Comments with Regard to Underground Methane Gas Anomalies Found in the Playa Vista Project."
- 26. City of Los Angeles Department of Building and Safety, Memorandum of General distribution, #92, Methane Potential Hazard Zones, March 19, 1991.
- City of Los Angeles, Office of the Chief Legislative Analyst, <u>City Investigation of Potential Issues of Concern for Community Facilities District No 4, Playa Vista Development Project</u>, March, 2001
- 28. California Department of Fish and Game, Memorandum: Extent of Wetlands in Playa Vista, December 1991."
- 29. California Coastal Commission, Memorandum: "Volume II Preliminary Working draft EIS/EIR Existing Conditions –Playa Vista March 5, 1998"

- 30. City of Los Angeles General Plan Palms, Mar Vista Del Rey District Plan, –Playa Vista Area C Specific Plan;
- 31. City of Los Angeles City Council: Conditions of Approval, Vesting Tentative Tract Map 49104 (As Revised December 8, 1995)
- 32. City of Los Angeles City Council: Conditions of Approval, Vesting Tentative Tract Map 52092 (December 8, 1995)
- 33. City of Los Angeles Tentative Tract Number 44668, Map and conditions of approval, May 4, 1987.
- 34. Regional Water Quality Control Board, Los Angeles Region: Clean up and Abatement Order 98-125.
- 35. Diamond, Jared M. 1975. "The Island Dilemma: Lessons of Modern Biogeographic Studies for the Design of Natural Reserves," <u>Biological Conservation</u>, v7 (1975): 129-146.
- 36. Longcore, Travis, Urban Wildlands Group, "Ecological Consequence of Artificial Night Lighting," Bibliography, 3/14/2002.

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